

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**JOHN TRUJILLO,**

**Plaintiff,**

**vs.**

**Cause No. 15-CV-00901**

**RIO ARRIBA COUNTY ex rel,  
RIO ARRIBA COUNTY SHERIFF'S  
DEPARTMENT, DEPUTY GILBERT ATENCIO,  
in his individual capacity, and  
LIEUTENANT MARVIN ARMIJO,  
in his individual capacity,**

**Defendant.**

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1441(b) and 1446(a) and (b), Defendants, by and through their undersigned counsel, Brennan & Sullivan, P.A. (James P. Sullivan), give Notice of Removal to this Court of the civil action filed in the First Judicial District Court for the State of New Mexico, County of Rio Arriba, Cause No. D-117-CV-2015-00301, filed by John Trujillo, and as grounds therefore state:

1. On August 20, 2015, Plaintiff John Trujillo filed a Complaint to Recover Damages Pursuant to the New Mexico Tort Claims Act and for the Deprivation of Rights Guaranteed by the New Mexico Constitution ("Complaint") with the First Judicial District Court. A copy of the Complaint is attached hereto as **Exhibit A**.

2. On September 8, 2015, Defendants, Rio Arriba County and Rio Arriba County Sheriff's Department were each served with the Complaint. Copies of the summons returns filed with the court are attached hereto as **Exhibit B** and **Exhibit C**, respectively.

3. On September 29, 2015, Defendant Gilbert Atencio was served with the Complaint. See copy of the summons return filed with the court on attached hereto as **Exhibit D**.

4. To this counsel's knowledge and information, to date, Defendant Lieutenant Martin Armijo has not been served. However, a summons was issued for him by the First Judicial District Court on September 2, 2015. A copy of the issued summons is attached hereto as **Exhibit E**.

5. This Notice of Removal is timely as it is filed within thirty (30) days of proper service of the Complaint on September 8, 2015.

6. All Defendants, by and through undersigned counsel, consent to the removal of this action.

7. Pursuant to 28 U.S.C. § 1446(d), copies of the Notice of Removal will be promptly given to all adverse parties and a copy of the Notice of Removal will be filed with the Clerk of the First Judicial District Court, County of Rio Arriba, State of New Mexico.

8. The claims stated against Defendants that are subject to the original jurisdiction of this Court pursuant to 28 U.S.C. 1331 and 1343(a)(3) and (4) are as follows:

- a. Count IV of Plaintiff's Complaint, alleging violations of the Americans with Disabilities Act. See Exhibit A, Count IV, pp. 10-12.

9. Federal questions thus appear on the face of Plaintiff's Complaint. The Court also has supplemental jurisdiction over Plaintiff's state law claims in Counts I, II and III pursuant to 28 U.S.C. § 1367, as these claims are so related to the federal question claims which this Court has original jurisdiction over that they form part of the same case or controversy under Article III of the U.S. Constitution. See Exhibit A, Counts I, II and III, pp. 9-12.

10. Pursuant to Rule 81.1(a) of the Local Rules of the United States District Court for the District of New Mexico, Defendants will file a Notice of Filing of State Court Record and copies of the pleadings filed in the First Judicial District for the State of New Mexico, County of Rio Arriba, Cause No. D-117-CV-2015-00301, within twenty-eight (28) days of filing this Notice of Removal. A Civil Cover Sheet is attached as **Exhibit F**.

Respectfully submitted,

BRENNAN & SULLIVAN, P.A.

By: /s/ James P. Sullivan  
James P. Sullivan  
128 East DeVargas  
Santa Fe, New Mexico 87501  
(505) 995-8514  
*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 7<sup>th</sup> day of October, 2015, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Joseph P. Kennedy, Esq.  
KENNEDY, KENNEDY & IVES, LLC  
1000 Second Street, NW  
Albuquerque, NM 87102  
(505) 244-1400  
(505) 244-1406 FAX  
[jpk@civilrightslawnewmexico.com](mailto:jpk@civilrightslawnewmexico.com)  
*Attorneys for Plaintiff*

By: /s/ James P. Sullivan  
James P. Sullivan